

HERITAGE MATTERS

The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484
Attention Jane Lofthouse

TWEED SHIRE COUNCIL	
FILE No.	WHARFS
Doc No	
REC'D	- 8 FEB 2007
ASSIGNED TO	LOFTHOUSE J
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02 FEB 2007

W06/2010
AM04/07

Dear Ms Lofthouse

**Maritime Infrastructure Program (MIP) 2006/07
Project: Tumbulgum Heritage Wharf**

I refer to your recent application for a Funding Grant from the Maritime Infrastructure Program (MIP) in 2006/07, to assist with the above project

Your application has been reviewed by the MIP Assessment Committee which has supported the project for a MIP Grant. As a result NSW Maritime is pleased to offer you a MIP Grant of \$32,500. The reduced grant amount is due to the number of competitive applications this year and the Committee's decision that 'heritage-style' wharf did not add significantly to the existing pontoon facility. The grant amount is based on

- 1 50% of the cost of project management and design
- 2 50% of the cost of the pontoon refurbishment
- 3 \$10,000 toward the sewage pumpout facility (as limited in the MIP Guidelines)

The Grant is subject to Council

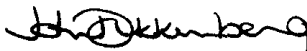
- (a) complying fully with the MIP Conditions Of Grant and a copy of the conditions is attached for your information,
- (b) obtaining all necessary planning and development approvals and consents, and
- (c) ensuring that a detailed design of the project is undertaken and certified by a professional practicing Engineer where appropriate and
- (d) ensuring that detailed drawings of the proposed project are submitted to the NSW Maritime for concurrence prior to any work being undertaken

Should you wish to accept the NSW Maritime's offer of a MIP Grant you are required within **one month** to complete and return to NSW Maritime,

- (e) the Grant Acceptance Document attached at Annexure "A" to the MIP Conditions Of Grant Document, and
- (f) the Payment Schedule and Management Of The Project Schedule attached at Annexure "B" to the MIP Conditions Of Grant Document

Please do not hesitate to contact Lisa Anderson, MIP Manager on (02) 9563 8847 should you have any questions in relation to the offer of a MIP Grant

Yours sincerely



John Dikkenberg
General Manager
Commercial Vessels and Asset Management



**MARITIME INFRASTRUCTURE
PROGRAM**

(MIP)

CONDITIONS OF GRANT

MIP CONDITIONS OF GRANT

1. DESCRIPTION

1.1 **THIS DOCUMENT** sets out the standard conditions applicable to each Grant made from the Maritime Infrastructure Program (MIP).

1.2 It is a fundamental condition of each Grant that the Grantee accepts and complies with each condition specified in the Letter Of Offer and this Document and the Grantee will be required to sign the Grant Acceptance Document attached and marked Annexure "A", prior to receiving any Grant payments

2. DEFINITIONS

2.1 When used in this Document;

"Agreement" means the current MIP Application Information Kit Funding Grant document and the MIP Application Form for a Funding Grant approved by the Authority, the Letter of Offer and this Document.

"Application" means the current NSW Maritime Authority Application Form for a MIP Grant.

"Authority" means the NSW Maritime Authority.

"CEO of the Authority" means the Chief Executive Officer of the NSW Maritime Authority.

"Certificate Of Expenditure" means the MIP Claim Form approved by the Authority which must be completed and submitted by the Grantee with all claims for Grant payments.

"Convenor" means a person appointed by the Grantee to convene the "Project Steering Committee".

"Grant" means the provision of funds from MIP to undertake a Project.

"Grant Acceptance Document" means the document attached and marked Annexure "A"

"Grantee" means a person, organisation, institution or body assessed by the Authority as eligible to receive a MIP Grant.

“Information Kit” means the MIP Application Information Kit for a Funding Grant, issued by the Authority for the purpose of providing information on MIP generally and detailing the Grant process.

“Letter of Offer” means a letter issued by the Authority making a Grant offer and specifying any conditions attached to the offer.

“Parties” means the Authority and the Grantee.

“Project” means the infrastructure to be provided using Grant funds as set out in the Application and the Letter Of Offer. It is noted that if there is any conflict between the Application and the Letter Of Offer, the Letter Of Offer will prevail.

“Project Manager” means the person or organisation specified by the Grantee as being responsible for management of the Project in Section E of the Application.

“Project Steering Committee” means a Committee comprising the members specified on Page 8, Clause 9.1 of the Information Kit.

“Scope of Work” means the Project details specified in Sections B & D of the Application or as approved in the Letter of Offer.

“Unauthorised purpose” means a purpose not specified in either Section B of the Application or the Letter Of Offer.

“MIP Assessment Committee” means a Committee formed by the Authority for the purpose of assessing grant applications in accordance with the criteria specified in Clause 6 of the Information Kit.

“MIP Manager” means the person appointed to that Position by the Authority, or, his/her representative as specified by the CEO of the Authority.

3. GENERAL CONDITIONS OF THE GRANT

3.1 The offer of a Grant is subject to the following general conditions;

- (a)** acceptance by the Grantee that the MIP Application Information Kit Funding Grant Document, the MIP Application Form for a Funding Grant, the Letter of Offer and this Document constitute the total Agreement relating to payment of the Grant;
- (b)** the Grantee completing and returning to the Authority the Grant Acceptance Document attached and marked Annexure “A”;

(c) the Grantee satisfactorily completing and returning to the Authority the Schedules attached and marked Annexure “B”;

(d) the Project being

(i) commenced within six months; and

(ii) completed within twelve months

from the date of the Grantee signing the Grant Acceptance Document;

(e) the Grantee arranging for a detailed design to be undertaken and certified by a professional practicing Engineer; and

(f) the Grantee submitting detailed drawings of the proposed Project to the Authority for concurrence prior to any work being commenced.

(g) the Grantee satisfactorily undertaking all requirements on completion of the project as identified in Clause 12.1.

4. PAYMENT OF THE GRANT

4.1 The Grant will when possible be paid to the Grantee in accordance with the Payment Schedule attached and marked Annexure “B”, provided that the Certificate Of Expenditure has been satisfactorily completed. If a revised Payment Schedule is approved by the Authority all previous Payment Schedules must be marked as “superseded” by the Grantee and the new approved Schedule must be attached to the signed copy of this Document.

4.2 Grant payments will be made on the basis of actual expenditure by the Grantee as set out in the Certificate of Expenditure, or on the basis of valuations of this expenditure made by either the Authority or a person/Organisation appointed by it for this purpose.

4.3 Grant payments may be withheld by the Authority if any requirements specified in the Agreement, including any special conditions, are not satisfied by the agreed date.

5. RESTRICTION ON THE USE OF GRANT FUNDS

5.1 The following conditions apply to the use of Grant funds;

(a) the Grant is made to the Grantee for the purpose specified in the Letter Of Offer only;

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- (b) the Grant may be immediately revoked if it is used for an unauthorised purpose and should this occur the Grantee must immediately repay to the Authority any unexpended funds received under the Grant along with an amount equal to the funds received from any previous Grants which have been used for an unauthorised purpose;
 - (c) Grant funds which are not used within the time prescribed in Clause 3.1(d) must be repaid to the Authority within seven days of a written demand in this regard;
 - (d) the Grantee must advise the Authority in writing within twenty four hours of receiving, or becoming aware that it will receive, funds from another source to be used for the same Project as the Grant was made, if such funds were not declared in the Grant Application;
 - (e) the Grantee must not make a loan, gift or donation from Grant funds; and
 - (f) the Grantee must not assign, sub-contract or divest itself of a Project without the written approval of the MIP Manager and in all instances shall ensure that any person undertaking the Project complies with each condition specified in the Agreement

6. MANAGEMENT OF THE PROJECT

6.1 The following conditions apply to the management of the Project;

- (a) the Project must be project managed by the Grantee in a professional manner, in accordance with accepted industry practice;
- (b) any tendering of work and evaluation of tenders must be in accordance with local Council procedures and guidelines;
- (c) a Project Steering Committee must be set up by the Grantee in situations where;
 - (i) the work associated with the Project is of a complex nature;
 - (ii) extensive consultation with the community or other organisations is required;
 - (iii) Grant funds exceed \$50,000; or
 - (iv) the Authority so directs.

In such instances the names of Committee members submitted to the Authority, within 2 months of the date on the Letter of Offer;

- (d) the Project Steering Committee must be effectively managed by the Grantee and a Convenor is to be appointed by the Grantee;
- (e) the Project Steering Committee must meet on a regular basis and as a minimum on the estimated dates specified in the Project Management Schedule attached and marked Annexure "B";
- (f) the Grantee must submit a written progress report in relation to the Project to the Convenor of the Project Steering Committee at least five days prior to each meeting, unless otherwise specified. The report is to detail progress against the Project details and costing specified in the Application and Schedules attached and marked "Annexure B" and to detail expenditure and any Project constraints or changes to the scope of work;
- (g) the Convenor must ensure that the report is distributed to each Member of the Project Steering Committee, within 2 days of its receipt and prior to the next scheduled meeting;
- (h) the Grantee must implement all Project management controls specified in the Letter Of Offer and this Document;
- (i) the Grantee must ensure that the Project complies with all relevant Commonwealth, State and local authority environment, heritage and planning laws/regulations, as well as appropriate Building Code of Australia and Australian Standards, Wharf & Jetty Design Guidelines, Marina Guidelines and any other Guidelines drawn to the attention of the Grantee by the Authority;
- (j) the Grantee must co-operate with the Authority and participate in an evaluation of the Project's progress and outcomes as required by the Authority;
- (k) the Grantee must allow the Authority reasonable access to the Project site to enable it to monitor Project progress.

7. THE PROCEDURES TO BE FOLLOWED IF THERE WILL BE NON-COMPLIANCE WITH THE AGREEMENT

- 7.1** If for any reason the Grantee is unable to commence or continue work on the Project or forms the opinion that progress will be significantly delayed, the Grantee must immediately notify the MIP Manager in writing and consult with the Project Steering Committee about terminating the Grant or otherwise dealing with the matter.

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- 7.2** If the Project cannot be completed within the period specified in Condition 3.1(d), a written request for an extension, must be submitted to the MIP Manager, as soon as the Grantee becomes aware of the fact that the time limit will be exceeded. Generally Grant funds cannot be carried forward and must be used in the period for which they were granted.
- 7.3** Any request for a variation to the scope of the work or any conditions specified in the Agreement must be approved in writing by the MIP Manager. Such approval will not be granted unless written approval of the variation has been obtained by the Grantee from any other bodies funding the Project.

8. FINANCIAL REQUIREMENTS

- 8.1** The Grantee must keep such records as will allow separate identification of Grant funds from other income and enable expenditure to be verified. The Grantee must permit these records to be inspected at any reasonable time by the MIP Manager.
- 8.2** The Grantee must keep such records as will enable identification of expenditure on all the major Project elements specified in the Payment Schedule attached to this Document and marked Annexure "B".
- 8.3** All Project-related income which is generated through the application of the Grant (eg. bank interest, fees for services provided under the Grant, revenue from the sale of project material, etc) must be applied to the Project by the Grantee and must be fully disclosed in the required financial statements.
- 8.4** The salary levels and allowances for staff involved in the Project as detailed in Section D of the Application are to be based on award rates. The Grantee must ensure that award provisions are applied in relation to all employees funded either wholly or in part by Grant funds.
- 8.5** Details of the sale, disposal or write-off of any asset acquired with Grant funds during the term of the Project must be included in the required financial statements.

9. ASSETS

- 9.1 Ownership of equipment purchased by use of Grant funds is vested in the Grantee, unless stated otherwise as a special condition of the Agreement.
- 9.2 Assets to be purchased by use of Grant funds must be identified in the approved budget specified in Section D of the Application.
- 9.3 Real estate property acquired from Grant funds during the term of the Project may not be disposed of nor any proceeds from such disposal used without the prior approval of the CEO of the Authority.
- 9.4 In the event of the voluntary winding-up of a Grantee organisation during the term of the Project, the disposal of assets acquired from Grant funds must be approved, in writing, by the CEO of the Authority, subject to the provisions under which the Grantee is incorporated.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 The title, copyright and other all rights to intellectual property in and to all documents, photographs, drawings, pictures, designs, films, slides, video tapes, audio tapes, objects, displays and other material of whatsoever kind, produced, created, designed, devised or made by, or on behalf of the Grantee under the Agreement vests in the Grantee.
- 10.2 The Grantee grants to the Authority an irrevocable licence to reproduce and disseminate the material referred to in Condition 10.1.
- 10.3 On the expiration or earlier termination of this Agreement, the Grantee shall deliver to the Authority a copy of all material referred to in Condition 10.1.

11. TERMINATION, COMPLETION & DISCONTINUANCE

- 11.1 It is a condition of the Grant that it may be terminated if the CEO of the Authority considers that;
- (a) the Project is not being carried out with the competence and diligence that can reasonably be expected;
 - (b) the Project is not being carried out in accordance with the Agreement; or

- (c) the Grantee has failed to provide appropriate information during the course of the Project concerning administrative, Project management or financial aspects of the Project in accordance with the Agreement or following a reasonable request from the MIP Manager.

11.2 It is a condition of the Grant that upon termination of the Grant or completion of the Project, any Grant funds that have not been expended or committed for expenditure on the Project, are to be paid to the Authority within seven days of a written demand in this regard.

11.3 It is a condition of the Grant that upon a discontinuance of the Project by the Grantee for any reason, the Grantee will forthwith;

- (a) repay to the Authority all unexpended funds received under the Grant;
- (b) repay to the Authority all Grant funds received if the Authority is unable to arrange for completion of the Project and a written demand is issued by the Authority in this regard; and
- (c) assume responsibility for the incomplete Project unless the Authority directs otherwise.

12. REQUIREMENTS UPON COMPLETION OF PROJECT

12.1 It is a condition of the Grant that upon completion of the Project;

- (a) at the final Project Steering Committee meeting a statement of compliance must be provided by the Grantee signed by an authorised officer of the Grantee's organisation setting out whether:
 - (i) the Grant has been used for the purpose for which it was provided; and
 - (ii) the conditions specified in the Agreement have been met
- (b) the Grantee must, within 3 months, forward to the MIP Manager an audited Statement of receipts and payments, in respect of the Project, certified by the chief financial officer of the Grantee's organisation and provide an independent audit of accounts if requested by the Authority. The Statement must include receipts and payments and a balance sheet in respect to the Grant Funds and certification that salaries and allowances paid to people employed under the Grant complied with award salary rates;
- (c) the Grantee must also forward to the MIP Manager a photograph(s) that clearly illustrates the project and any specific requirements (e.g. signage) as identified in the Letter of Offer.

- (d) the Grantee must support the issue and installation of any plaque or signage including the use of the NSW Maritime logo and standard text of acknowledgement in relation to the Project; and
- (e) the Grantee must advise NSW Maritime of the predicted completion date at least 2 months prior to the completion of the Project and include NSW Maritime in any official opening or press coverage related to the Project.

13. INDEMNITY

13.1 It is a condition of the Grant that the Grantee indemnifies the Authority and the State Of NSW, their officers, agents, contractors, or any other person from and against all claims, costs, expenses and damages (including the costs of defending or settling any action or claim) in respect of:

- (i) any loss of or damage to property of the Authority or the State Of NSW; or
- (ii) any personal injury (including death) to any person or loss or damage to any property,

arising out of or by reason of any matter associated with the Agreement.

14. GRANTEE'S RELATIONSHIP WITH THE AUTHORITY

14.1 It is a condition of the Grant that the Grantee accepts;

- (a) that it and its employees are not by virtue of the Agreement employees of the Authority and that no employer/employee obligations of any type exist; and
- (b) that it must not purport to represent the Authority in connection with the carrying out of the Project and that it is not empowered to act on behalf of or to bind the Authority in any way.

15. LEASING OF PREMISES

15.1 It is a condition of the Grant that if premises are being leased and rental is being met wholly or partly by Grant funds, no person or organisation other than the Grantee shall be permitted to occupy any Grant funded part of the premises without the concurrence of the MIP Manager.

16. VARIATION

16.1 It is a condition of the Grant that the terms and conditions of the Agreement may be varied by the mutual written consent of the Authority and the Grantee.

17. INSURANCE

17.1 Insurance General

It is a condition of the Grant that the Grantee shall, if requested by the Authority, provide copies of Insurance Policies to the Authority.

17.2 It is a condition of the Grant that the Grantee shall ensure that the following Insurances are held;

(a) Professional Indemnity Insurance

- (i)** The Grantee shall ensure that any Project Manager appointed holds professional liability and indemnity insurance which covers the Grantee's liability to the Authority under the Agreement for a period from the commencement of the Project until completion of the Project.
- (ii)** The policy shall contain the following provisions:
 - (ai)** a minimum indemnity limit of \$2,000,000;
 - (aii)** a minimum coverage period of 5 years from completion of the Project;
 - (aiii)** one automatic reinstatement provision; and
 - (aiv)** a description of the risk covered by the policy.

(b) Workers' Compensation Insurance

The Grantee shall ensure that a suitable insurance policy is effected prior to commencing the Project and remains current for the duration of the Agreement, covering liability for loss, damage, claims, and all direct or associated costs and expenses arising at common law or under workers' compensation insurance in respect of persons employed by the Grantee.

(c) Public Liability

- (i)** The Grantee shall obtain a policy of public liability insurance which covers the Grantee's liability to the Authority under the Agreement. The policy shall be obtained prior to commencing the Project and shall be maintained until completion of the Project.
- (ii)** The Policy shall be:
 - (ai)** in the joint names of the Grantee, its subcontractors, assigns and the Authority; and
 - (aia)** for an amount not less than \$10,000,000 in respect of any single occurrence.

MIP - ANNEXURE B

PROJECT:

PAYMENT SCHEDULE (Condition 4)

Payment No	Project Milestone	Weeks from Commencement (Conditions of Grant)	Est Value of work \$ (Cumulative)	Grant Payment \$ (Cumulative)
1				
2				
3				
4				
5				
TOTAL				

Note:

- Progress payments will generally be on the basis of actual costs.
- The Authority may authorize progress payments up to 80% of the value of the grant on the basis of estimates or valuations, acceptable to the Authority.
- Final payment will be made on receipt of an Audited Financial Statement.

MANAGEMENT OF THE PROJECT - SCHEDULE (Condition 6)

Meeting No	Project Milestone	Weeks from Commencement (Conditions of Grant)
1		
2		
3		
4		
5		

Revision Date	Approved